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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,668	11/13/2001	Patrick W. Girdain	025505-2005	8492
36412	7590	07/25/2006	EXAMINER	
DUCKOR SPRADLING METZGER			PIZIALI, JEFFREY J	
401 WEST A STREET, SUITE 2400			ART UNIT	
SAN DIEGO, CA 92101-7915			PAPER NUMBER	

2629

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

09/992,668

Examiner

Jeff Piziali

Applicant(s)

GIRALDIN ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 01 May 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

## TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

## Continuation of 4(e) Other:

First and foremost, the applicants are cordially thanked for the 'Supplemental Amendment' filed 1 May 2006. However, several seemingly non-compliant amendments have been discovered in the aforementioned response, requiring attention before examination may continue.

37 C.F.R. § 1.121(c)(2) requires, "All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of 'currently amended,' and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived."

In this case, the immediate prior version of the claims was submitted in the 'Reply and Amendment' filed 21 June 2004.

The 'Supplemental Amendment' filed 1 May 2006 appears to improperly recite claim language which was not present in the immediate prior version of the claims (in the 'Reply and Amendment' filed 21 June 2004).

For instance, "previously presented" claims 4 and 11 each add a space between "claim" and "14" in the first line, without providing marked up text to indicate the change.

Claim 14 adds a comma after "plurality of group members having tags" (see line 19), and adds a space between "members" and "via" (see line 19), without providing marked up text to indicate either change.

Claim 15 seeks to delete the text "of each member" (see line 15), however this text was nonexistent in the immediate prior version of the claims (i.e., the claims in the 'Reply and Amendment' filed 21 June 2004).

The applicants are respectfully encouraged to make sure that claim amendments are submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims (i.e., the claims in the 'Reply and Amendment' filed 21 June 2004).

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The amendments have not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered at the time of a subsequent amendment, yet another Notice of Non-Compliant Amendment will be necessitated. Applicants' cooperation is requested in correcting any other errors of which applicants may become aware.



J.P.  
20 July 2006